

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

LUFKIN RETAIL, LLC,

Plaintiff,

v.

SENECA SPECIALTY INSURANCE

COMPANY AND BASS

UNDERWRITERS, INC.

Defendants.

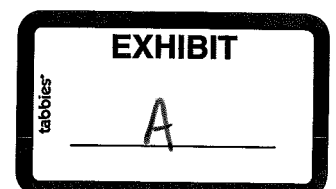
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CIVIL ACTION NO. _____

INDEX OF STATE COURT DOCUMENTS

Pursuant to Rule 81(c)(2) of the Local Rules of the United States District Court for the Eastern District of Texas, the following is an index of all documents that clearly identifies each document and indicates the date the document was filed in the Angelina County District Clerk in this case:

Date	Document
April 27, 2016	Plaintiff's Original Petition
April 27, 2016	Civil Information Sheet
April 27, 2016	Citation issued on Seneca Specialty Insurance Company
April 27, 2016	Citation issued on Bass Underwriters, Inc.
May 10, 2016	Affidavit of Service on Seneca Specialty Insurance Company
May 10, 2016	Affidavit of Service on Bass Underwriters, Inc.



Filed 4/27/2016 2:51:30 PM
Reba Squyres, District Clerk
Angelina County, Texas
By: Brittany Crawford,
Deputy Clerk

CAUSE NO. CV-00262-16-04

LUFKIN RETAIL, LLC	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
VS.	§	ANGELINA COUNTY, TEXAS
	§	
SENECA SPECIALTY INSURANCE	§	
COMPANY, AND	§	
BASS UNDERWRITERS, INC.	§	
Defendants.	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

COMES NOW, Plaintiff LUFKIN RETAIL, LLC, and files this Plaintiff's Original Petition and Request for Disclosure complaining of Defendants SENECA SPECIALTY INSURANCE COMPANY and BASS UNDERWRITERS, INC., and in support thereof, would show the Court the following:

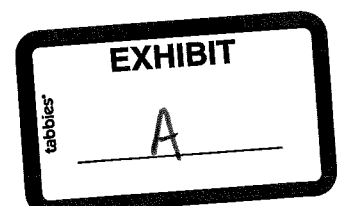
I. DISCOVERY CONTROL PLAN

1. Discovery in this case is intended to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

II. PARTIES AND SERVICE OF PROCESS

2. Plaintiff, LUFKIN RETAIL, LLC (hereinafter "LUFKIN") is a Texas Limited Liability Company which owns real property in Harris County, Texas. LUFKIN is the named insured of an insurance policy subscribed to and/or issued by SENECA SPECIALTY INSURANCE COMPANY and/or BASS UNDERWRITERS, INC. and would be affected by this Court's declaration of rights or duties under the insurance contract at issue.

3. Defendant, SENECA SPECIALTY INSURANCE COMPANY ("SENECA") is a foreign insurance company that engages in the business of selling insurance in Texas. SENECA is a surplus lines company and in accordance with the Texas Insurance Code, SENECA may be



served with citation together with a copy of this Plaintiff's Original Petition and Request for Disclosure by serving the Commissioner of the Texas Department of Insurance by certified or registered mail at 333 Guadalupe, Austin, Texas 78701 and the Commissioner of Insurance will then forward same to SENECA's registered agent, The Corporation Trust Company, located at Corporation Trust Center 1209 Orange St., Wilmington, Delaware 19801.

4. Defendant, BASS UNDERWRITERS, INC. is a surplus lines agency authorized to do business in Texas and may be served with citation together with a copy of this Plaintiff's Original Petition and Request for Disclosure by serving its registered agent, Wesley S. Bowers, at 5667 Gadwall Dr., Frisco, Texas 75034 or any officer or director wherever he/she may be validly served.

III. JURISDICTION AND VENUE

5. Venue is proper in Angelina County, Texas because the property made the basis of this lawsuit is situated in this County.

6. Jurisdiction is proper because the amount in controversy exceeds the minimum jurisdictional limits of this Court. This Court has personal jurisdiction over Defendants as they engage in the business of selling insurance in Texas including insurance coverage for the property made the basis of this lawsuit in Angelina County, Texas.

7. As diversity is lacking between the parties, this case may not be removed to federal court.

IV. AGENCY/RESPONDEAT SUPERIOR

8. All references herein to Defendants insofar as notice, knowledge, intent, acts, omissions, and all other conduct of same is concerned, necessarily includes that which was

given, had, known, and done by and through Defendants' authorized agents and employees acting within the course and scope of their employment, agency, or other relationship.

V. BACKGROUND FACTS

9. LUFKIN is the named insured under a Commercial Property Policy of insurance (hereinafter "the Policy") issued and subscribed to by SENECA (sometimes referred to as the "Insurance Company") with an effective policy period of August 23, 2013 to August 23, 2014 under policy no. SPP 4800105 . BASS UNDERWRITERS, INC. (hereinafter "Agency") was the agency that issued the Policy.

10. On or about September 27, 2013, Plaintiff's property suffered severe damage (hereinafter "Claim") as a result of an abrupt collapse rendering the building uninhabitable for its intended use. Plaintiff's loss is a covered loss and timely notified the Insurance Company and the Agency of the loss.

11. The loss reported by Plaintiff was related to damage to the insured property. Nevertheless, acting upon the investigation conducted, Defendants' agents and/or adjusters sent a reservation of rights letter regarding LUFKIN's Claim on or about February 27, 2014. SENECA and/or BASS UNDERWRITERS, INC. then denied the claim on or about May 9, 2014.

VI. CAUSES OF ACTION

Breach of Contract

12. LUFKIN repeats and adopts all of the allegations and averments set forth in Paragraphs 1-11.

13. LUFKIN would show the Court that the Insurance Company breached the insurance contract by failing to abide by the terms of the Policy, and specifically, by failing to

pay LUFKIN for its covered loss. Such breaches are a proximate cause of the actual damages sustained by Plaintiff, for which it here now sues.

14. The Insurance Company's breaches of the terms, conditions and duties under the Policy have necessitated that LUFKIN hire the undersigned counsel to prosecute its claims. As a direct result thereof, LUFKIN has incurred reasonable and necessary attorney's fees for which it here now sues to recover.

15. As a result of the Insurance Company's breaches of the terms, conditions and reasonable duties under the Policy, LUFKIN seeks an award of actual damages and an award of reasonable and attorneys' fees and costs of court incurred in prosecuting its claims in this action, as well as pre-judgment and post judgment interest at the highest rate permitted by law and an additional 18% per annum payable to LUFKIN under the policies and provisions of the Texas Insurance Code.

Ambiguity

16. In the alternative, and without waiving the foregoing, LUFKIN would show that any basis employed to deny coverage against the claims renders the language in the policies ambiguous and subject to multiple and imprecise interpretations. LUFKIN would show that in the event that the Court finds the language in the policies ambiguous, it is entitled to have any reasonable construction in favor of coverage applied and pursuant to Texas law all reasonable inferences must be afforded in favor of finding coverage.

Bad Faith

17. LUFKIN repeats and adopts all of the allegations and averments set forth in Paragraphs 1-16.

18. Alternatively, and without waiving the foregoing, LUFKIN would show that its status as an insured under the Policy, together with the claims made by Plaintiff herein give rise to a "special relationship" between LUFKIN and the Insurance Company, as the term "special relationship" is understood in terms of the law governing insurance policies and conduct by insurers with respect to their insured(s). As such, the Insurance Company owes LUFKIN the duty of Good Faith and Fair Dealing. The Insurance Company breached the duty of Good Faith and Fair Dealing owed to Plaintiff when it failed to conduct a reasonable investigation of the claim, and then failed to promptly pay the claim when it knew or should have known that coverage for the claims was reasonably clear. Such breaches of the Duty of Good Faith and Fair Dealing were both a proximate and producing cause of LUFKIN's actual damages and resultant incurred attorney's fees for which it here now sues. Inasmuch as the breach of Good Faith and Fair Dealing by the Insurance Company was committed intentionally, knowingly, with gross negligence, and/or with malice, LUFKIN is entitled to request from the trier of fact an award of exemplary damages for which it here now sues.

Breach of Fiduciary Duty

19. LUFKIN repeats and adopts all of the allegations and averments set forth in Paragraphs 1-18.

20. Alternatively, and without waiving the foregoing, LUFKIN would show that the Insurance Company owed it fiduciary duties, including but not limited to, (i) the duty of loyalty and utmost good faith, (ii) the duty of candor, (iii) duty to act with integrity of the strictest kind, (iv) the duty of fair and honest dealing and (v) the duty of full disclosure. As a direct, and proximate result of such breaches of fiduciary duty owed to LUFKIN, it has suffered actual damages, court costs, interest, and reasonable attorneys' fees. Inasmuch as such breaches of

fiduciary duty were committed intentionally, fraudulently, willfully and/or with malice, LUFKIN is entitled to request an award of exemplary damages for which it here now sues.

Violations of the Texas Insurance Code

21. LUFKIN repeats and adopts all of the allegations and averments set forth in Paragraphs 1-20.

22. Defendants' misrepresentation of the facts relating to coverage for the claim constitutes an unfair and deceptive practice in the business of insurance in violation of Tex. Ins. Code §541.060(1).

23. Defendants' failure to attempt in good faith a prompt, fair and equitable settlement of the claim when its liability was reasonably clear constitutes an unfair and deceptive practice in the business of insurance in violation of Tex. Ins. Code §541.060(2)(A).

24. Defendants' failure to promptly provide LUFKIN with a reasonable explanation of the reasons for its denial of the claim constitutes an unfair and deceptive practice in the business of insurance in violation of Tex. Ins. Code §541.060(3).

25. Defendants' denial of the claim without conducting a reasonable investigation constitutes an unfair and deceptive practice in the business of insurance in violation of Tex. Ins. Code. §541.060(7).

26. Defendants' failure to commence a reasonable investigation of the claim constitutes a violation of Tex. Ins. Code. §542.055 and §542.058.

Fraud

27. LUFKIN repeats and adopts all of the allegations and averments set forth in Paragraphs 1-26.

28. At all times relevant to this cause of action, and in particular at the time that Plaintiff purchased the policy, Defendants' represented to LUFKIN that Defendants would pay property damages caused by a covered loss. LUFKIN purchased the insurance policy from Defendants based upon the representations that the policy would cover the loss event like the one that occurred on the date in question. Said representations by Defendants' were false. Defendants' agents acted without reasonable basis, and knew or should have known that there was not a reasonable basis for denying or delaying payment of LUFKIN's claim. Defendants and its agents individually knew that Defendants had a *de facto* policy of refusing to pay the full and fair value of damages to an insured under the policy. Defendants and its agents individually knew that their representation was false or that it was made recklessly without any knowledge of its truth as a positive assertion. The representations pertained to a material fact. LUFKIN relied on this representation and has incurred serious damages as a result of these misrepresentations. Defendants participated in this fraud by having full knowledge of LUFKIN's damages and their cause, but hiring an expert that would allow it to get out of paying covered damages by fabricating false and misleading coverage defenses.

29. Defendants' wrongful denial of the claim constitutes common law fraud in that their representations concerning material facts were false, knowingly made false or with a reckless disregard for the truth, and with the intention that the representations be relied upon by LUFKIN.

VII. DAMAGES

30. LUFKIN incurred damages in the past and, in all reasonable probability, such damages will continue into the future. LUFKIN sustained loss of value, repair costs, and loss

of use damages. LUFKIN pleads for contractual damages as a result of the conduct of Defendants. LUFKIN also pleads for exemplary and/or punitive damages in an amount within the jurisdictional limits of this Court. LUFKIN further pleads for reasonable attorney's fees. Damages for monetary relief are over \$200,000 but not more than \$1,000,000.

VIII. JURY DEMAND

31. Plaintiff demands a jury trial and tenders the appropriate fee with this Petition.

IX. REQUEST FOR DISCLOSURE

32. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants are requested to disclose within 50 days of service of this "Plaintiff's Original Petition and Request for Disclosure", the information or material described in Rule 194.2(a) through 194.2(L). The original or copies of documents and other tangible items requested must be produced for inspection and copying at the law office of Jeffery J. Davis, PLLC, 5615 Richmond Ave., Suite 250, Houston, Texas 77057 within 50 days after service of this request together with a written response. Each written response must be preceded by the request to which it applies. No objection or assertion of work product privilege is permitted to a request under this rule. Your response must be signed. If you fail to comply with this request, the court may order sanctions against you in accordance with the Texas Rules of Civil Procedure.

X. TEXAS RULES OF CIVIL PROCEDURE RULE 193.7 NOTICE

33. Plaintiff hereby places Defendants on notice that it intends to use all Defendants' discovery responses as evidence at trial or any pretrial proceeding in accordance with such right and privileges established by Rule 193.7 of the Texas Rule of Civil Procedure.

XI. PRAYER

WHEREFORE, Plaintiff prays that Defendants be cited to appear and answer herein, and that upon final trial hereof, Plaintiff recover judgment of and against Defendants for:

- a. Actual and exemplary damages requested hereinabove as allowed by law;
- b. Statutory penalties as allowed by law;
- c. Pre-judgment and post-judgment interest at the maximum rates permitted under Texas law;
- d. Reasonable and necessary attorneys' fees;
- e. Costs of court; and
- f. Such other and further relief, general and special, at law or in equity, to which Plaintiff may show itself to be justly entitled.

Respectfully submitted,

JEFFERY J. DAVIS, PLLC



Jeffery J. Davis
State Bar No. 24028276
5615 Richmond Ave. Suite 250
Houston, Texas 77057
Telephone: (713) 936-1031
Facsimile: (713) 349-7063
Email: jdavis@jjd-law.com

**ATTORNEYS FOR PLAINTIFF,
LUFKIN RETAIL, LLC**

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS COUNTY OF ANGELINA

I hereby certify that the above is a
true and correct copy of the original
record on file in my office.

9 Pages
FEDA SQUIRES, DISTRICT CLERK, ANGELINA CO. TX

By *Feda Squires*
Feda Squires

Filed 4/27/2016 2:51:30 PM
 Reba Squyres, District Clerk
 Angelina County, Texas
 By: Brittany Crawford,
 Deputy Clerk

CIVIL CASE INFORMATION SHEET

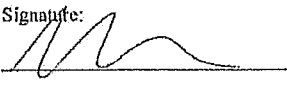
CAUSE NUMBER (FOR CLERK USE ONLY): CV-00262-16-04

COURT (FOR CLERK USE ONLY):

STYLED LUFKIN RETAIL, LLC V. SENECA SPECIALTY INSURANCE COMPANY AND BASS UNDERWRITERS, INC.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:	
Name: <u>Jeffery J. Davis</u> Email: <u>jdavis@jjd-law.com</u> Address: <u>5615 Richmond Ave., Ste 250</u> City/State/Zip: <u>Houston, TX 77057</u> Signature:  Telephone: <u>713/936-1031</u> Fax: <u>888/349-7063</u> State Bar No: <u>24028276</u>		Plaintiff(s)/Petitioner(s): <u>Lufkin Retail, LLC</u> Defendant(s)/Respondent(s): <u>Seneca Specialty Insurance Company</u> <u>and</u> <u>Bass Underwriters, Inc.</u>		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input checked="" type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: _____ Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
(Attach additional page as necessary to list all parties)					
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract	Injury or Damage	Real Property	Marriage/Relationship	Post-judgment Actions (non-Title IV-D)	
<input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input checked="" type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ <input type="checkbox"/> Related to Criminal Matters	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children <input type="checkbox"/> Other Family Law	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <input type="checkbox"/> Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order <input type="checkbox"/> Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Paternity/Parentage <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment	Other Civil				
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
Tax	Probate & Mental Health				
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<input type="checkbox"/> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____				
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

VERIFIED COPY CERTIFICATE
STATE OF TEXAS COUNTY OF ANGELINA

I hereby certify that the above is a
true and correct copy of the original
record on file in my office.

1 Page

REBECCA SOUTHERS, DISTRICT CLERK, ANGELINA CO. TX



Filed 5/10/2016 2:11:26 PM
Reba Squyres, District Clerk
Angelina County, Texas
By: Tammie Clegg,
Deputy Clerk

CITATION

CLERK OF THE COURT

Reba Squyres
District Clerk
P.O. Box 908
Lufkin, Texas 75902

ATTORNEY FOR PLAINTIFF

JEFFERY J. DAVIS
5615 RICHMOND AVE STE 250
HOUSTON, TX 77057

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: SENECA SPECIALTY INSURANCE COMPANY, Defendant

GREETINGS: You are commanded to appear by filing a written answer to the plaintiff's petition at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service hereof, before the 217th Judicial District Court of Texas, at the Courthouse in Lufkin, Texas.

Said plaintiff's petition was filed on **April 27, 2016** at **2:51 O'CLOCK P.M.**

The file number of said suit being **CV-00262-16-04**.

The style of the case is:

LUFKIN RETAIL, LLC

VS.

**SENECA SPECIALTY INSURANCE COMPANY, AND
BASS UNDERWRITERS, INC.**

A copy of plaintiff's petition accompanies this citation.

Issued on this the 27th day of April, 2016.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Lufkin, Texas, on this the 27th day of April, 2016.

FEES UNPAID

RULE 103

Reba Squyres, District Clerk
Angelina County, Texas
P.O. Box 908
Lufkin, Texas 75902

By: Brittany Crawford, Deputy
Brittany Crawford, Deputy District Clerk



Cause: CV-00262-16-04

Executed when copy is delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the ____ day of _____, 20____.

_____, Officer
_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

Defendant:

SENECA SPECIALTY INSURANCE COMPANY
REGISTERED AGENT: THE COPORATION CO
Corporation Trust Center 1209 ORANGE ST
WILMINGTON, DE 19801

COMMISSIONER OF THE TEXAS
DEPARTMENT OF INSURANCE
333 GUADALUPE
AUSTIN, TX 78701

OFFICER'S RETURN

Came to hand on the ____ day of _____, 20____, at _____, o'clock ____m., and executed in _____ County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the plaintiff's petition, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
------	-----------	--

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

and the cause or failure to execute this process is: _____

and the information received as to the whereabouts of said defendant(s) being: _____

FEES:

Serving Petition and Copy \$ _____
Total \$ _____

_____, Officer
_____, County, Texas

By: _____, Deputy

Affiant

***Rule 107 Verification:** Subscribed and sworn to by the above named _____ before me this the ____ day of _____, 20____, to certify which witness my hand and seal of office.

Person Administering Oath

CAUSE NO. CV-00262-16-04

LUFKIN RETAIL, LLC

vs.

SENECA SPECIALTY
INSURANCE COMPANY et al.

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IN THE 217th JUDICIAL DISTRICT
COURT OF ANGELINA COUNTY, TEXAS

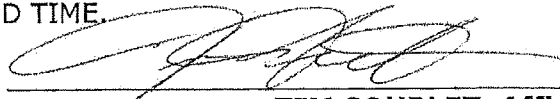
AFFIDAVIT OF SERVICE

My name is **Tim Soublet**. I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome. I am a private process server authorized by and through the Supreme Court of Texas, am in all ways competent to make this affidavit, and this affidavit is based on personal knowledge. The facts stated herein are true and correct. My business address is P.O. Box 741195, Houston, Texas 77274.

On April 28, 2016 at 1:30 P.M. - DUPLICATE COPIES OF CITATION, PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE, CHECK NUMBER 2253 IN THE AMOUNT OF \$50.00 for delivery to **SENECA SPECIALTY INSURANCE COMPANY, BY DELIVERING TO COMMISSIONER OF INSURANCE, at 333 GUADALUPE, AUSTIN, TEXAS 78701, came to hand.**

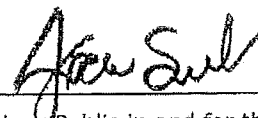
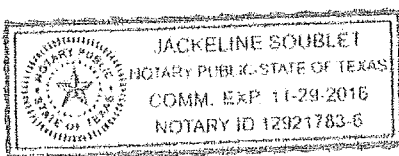
On April 29, 2016 at 4:20 P.M. -THE ABOVE NAMED DOCUMENTS WERE DELIVERED TO: **SENECA SPECIALTY INSURANCE COMPANY, BY DELIVERING TO COMMISSIONER OF INSURANCE, at 333 GUADALUPE, AUSTIN, TRAVIS COUNTY, TEXAS 78701, BY CERTIFIED MAIL RETURN RECEIPT REQUESTED. SEE THE ATTACHED PROOF OF MAILING RECEIPT.**

On May 2, 2015 at 12:35 P.M. -THE ABOVE NAMED DOCUMENTS WERE DELIVERED TO: **SENECA SPECIALTY INSURANCE COMPANY, BY DELIVERING TO COMMISSIONER OF INSURANCE, at 333 GUADALUPE, AUSTIN, TRAVIS COUNTY, TEXAS 78701, BY CERTIFIED MAIL RETURN RECEIPT REQUESTED. SEE THE ATTACHED PROOF OF MAILING RECEIPT WITH TRACK AND CONFIRM RECEIPT MARKED RECEIVED ON THIS DATE AND TIME.**



TIM SOUBLET, Affiant
ID: SCH000003019 expires: 08/31/2016

Before me personally appeared the above-named affiant, who, being first duly sworn, stated upon oath that the above-stated facts are true and correct and within his or her personal knowledge, and subscribed the same on this 5th day of May, 2016.



Notary Public in and for the State of Texas

12076.1

CERTIFIED MAIL RECEIPT
 (Postage and fees must be paid by the addressee.)
 AUSTIN, TX 78701

04/29/2016

Commissioner of
 Texas Department of Insurance
 333 Guadalupe
 Austin, Texas 78701

Postage \$2.70
 Insurance \$0.00
 Return Receipt \$0.00
 Signature Confirmation \$0.00
 Total \$2.70

04/29/2016


Postage \$2.70
 Insurance \$0.00
 Return Receipt \$0.00
 Signature Confirmation \$0.00
 Total \$2.70

DE MOSS
 6500 DE MOSS DR
 HOUSTON
 TX
 77074-9998
 4813970033
 (800) 275-8777 4:20 PM

Product Description Sale Qty Final Price
 First-Class Mail Large Envelope (Domestic)
 (AUSTIN, TX 78701)
 (Weight: 0 Lb 6.40 Oz)
 (Expected Delivery Day)
 (Monday 05/02/2016)
 Certified 1 \$3.30
 (USPS Certified Mail #)
 (7012164000042086027)
 Return 1 \$2.70
 (USPS Return Receipt #)
 (9596940304785173173548)

Total \$8.20

Debit Card Remit'd
 (Card Name: Debit Card)
 (Account #: XXXXXXXXXX5197)
 (Approval #: 044063)
 (Transaction #: 953)
 (Receipt #: 005244)
 (Debit Card Purchase: \$8.20)
 (Cash Back: \$0.00)

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Commissioner of Texas Department of Insurance 333 Guadalupe Austin, Texas 78701</p> <p> 9590 9403 0478 5173 1735 48</p> <p>2. Article Number (Transfer from service label) 7012 1640 0000 4208 6027</p>	<p>A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) DE MOSS</p> <p>C. Date of Delivery 04/29/2016</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>TEXAS DEPT. OF INSURANCE MAIL DELIVERY</p> <p>3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Mail Restricted Delivery</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>

PS Form 3811, April 2015 PSN 7530-02-000-9053 Domestic Return Receipt

USPS.com® - USPS Tracking®

https://tools.usps.com/go/TrackConfirmAction?qt_c_tLabels1=7012...

12076-1



USPS Tracking®

Tracking Number: 70121640000042086027

On Time

Expected Delivery Day: Monday, May 2, 2016

Product & Tracking Information

Postal Product:
First-Class Mail®Features:
Certified Mail™

Return Receipt

See tracking for related item: 9590940304785173173548

DATE & TIME	STATUS OF ITEM	LOCATION
May 2, 2016 , 12:35 pm	Delivered	AUSTIN, TX 78701

Your item was delivered at 12:35 pm on May 2, 2016 in AUSTIN, TX 78701.

May 2, 2016 , 10:02 am	Arrived at Unit	AUSTIN, TX 78744
May 2, 2016 , 9:50 am	Out for Delivery	AUSTIN, TX 78701
May 2, 2016 , 9:40 am	Sorting Complete	AUSTIN, TX 78701
May 2, 2016 , 6:03 am	Departed USPS Facility	AUSTIN, TX 78710
April 30, 2016 , 12:31 pm	Arrived at USPS Destination Facility	AUSTIN, TX 78710
April 29, 2016 , 11:08 pm	Arrived at USPS Origin Facility	NORTH HOUSTON, TX 77315
April 29, 2016 , 7:47 pm	Departed Post Office	HOUSTON, TX 77074
April 29, 2016 , 4:19 pm	Acceptance	HOUSTON, TX 77074

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS COUNTY OF ANGELINA

I hereby certify that the above is a
true and correct copy of the original
record on file in my office.

5 pages

REGA SOUTHERS, DISTRICT CLERK, ANGELINA CO. TX

Jamie O.

12076.2

Filed 5/10/2016 2:11:26 PM
Reba Squyres, District Clerk
Angelina County, Texas
By: Tammie Clegg,
Deputy Clerk

CITATION

CLERK OF THE COURT

Reba Squyres
District Clerk
P.O. Box 908
Lufkin, Texas 75902

ATTORNEY FOR PLAINTIFF

JEFFERY J. DAVIS
5615 RICHMOND AVE STE 250
HOUSTON, TX 77057

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: **BASS UNDERWRITERS, INC.**, Defendant

GREETINGS: You are commanded to appear by filing a written answer to the plaintiff's petition at or before 10:00 o'clock a.m. of the Monday next after the expiration of 20 days after the date of service hereof, before the 217th Judicial District Court of Texas, at the Courthouse in Lufkin, Texas.

Said plaintiff's petition was filed on **April 27, 2016 at 2:51 O'CLOCK P.M.**

The file number of said suit being **CV-00262-16-04.**

The style of the case is:

LUFKIN RETAIL, LLC

VS.

**SENECA SPECIALTY INSURANCE COMPANY, AND
BASS UNDERWRITERS, INC.**

A copy of plaintiff's petition accompanies this citation.

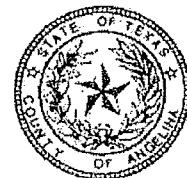
Issued on this the 27th day of April, 2016.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Lufkin, Texas, on this the 27th day of April, 2016.

FEES UNPAID

RULE 103

Reba Squyres, District Clerk
Angelina County, Texas
P.O. Box 908
Lufkin, Texas 75902



By: *Brittany Crawford*, Deputy
Brittany Crawford, Deputy District Clerk

Cause: CV-00262-16-04

Executed when copy is delivered:

This is a true copy of the original citation, was delivered to defendant _____, on the _____ day of _____, 20_____.

_____, Officer

_____, County, Texas

By: _____, Deputy

ADDRESS FOR SERVICE:

Defendant:

BASS UNDERWRITERS, INC.

REGISTERED AGENT: WESLEY BOWERS

5667 GADWALL DRIVE

FRISCO, TX 75034

OFFICER'S RETURN

Came to hand on the _____ day of _____, 20_____, at _____, o'clock _____m., and executed in _____ County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the plaintiff's petition, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
------	-----------	--

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

**AFFIDAVIT
ATTACHED**

_____ and the cause or failure to execute this process is: _____

_____ and the information received as to the whereabouts of said defendant(s) being: _____

FEES:

Serving Petition and Copy \$ _____

Total \$ _____

_____, Officer

_____, County, Texas

By: _____, Deputy

Affiant

*Rule 107 Verification: Subscribed and sworn to by the above named _____ before me this the _____ day of _____, 20_____, to certify which witness my hand and seal of office.

Person Administering Oath

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS COUNTY OF ANGELINA

Whereby certify that the above is a
true and correct copy of the original
record on file in my office.

3 pages

PEGGY SQUIYRES, DISTRICT CLERK, ANGELINA CO. TX


Peggy

OFFICIAL RECEIPT

Reba Squyres, Angelina County District Clerk
215 East Lufkin Ave.
Lufkin, Texas 75901
Phone: 936-634-4312
Fax: 936-634-5915

Payor
GILBERT TINAJERO

Receipt No.
2016-038956

Transaction Date
06/8/2016

Description	Amount Paid
Miscellaneous Payment	
Copies	18.00
Certified Copies	3.00
SUBTOTAL	21.00

PAYMENT TOTAL **21.00**

Cash Tendered	21.00
Total Tendered	21.00
Change	0.00

06/08/2016
11:45 AM

Cashier TC
Station DC19

Audit
3256491

OFFICIAL RECEIPT